IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 238 of 2004

For Approval and Signature:

HON'BLE MR. JUSTICE M.D. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MESSER'S DHARAMESH ENTERPRISES

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 238 of 2004

MR TARESH J BHATTJI for Petitioner No. 1

MR KP RAVAL ADDL PP for Respondent No. 1

MR RN SHAH for Respondent No. 2

MR NIRAL R MEHTA for Respondent No. 2

CORAM : HON'BLE MR. JUSTICE M.D. SHAH

Date of decision: 11/05/2005

ORAL JUDGEMENT

The present petitioner has filed this Criminal Revision Application under Section 397 read with Section 401 of the Code of Criminal Procedure Code and challenged the order passed by the Extra Sessions Judge, Fast Track Court No. 3 dated 12.3.2004 passed in Criminal Revision Application No. 49 of 2004.

2. Brief facts of the present case is that the present petitioner is the original complainant, who has lodged the complaint under Section 138 of the Negotiable Instrument Act before the learned Judicial Magistrate First Class against opponent No. 2, which came to be registered as Criminal Case No. 124 of 2000. During the course of trial, the present respondent No. 2 submitted an application at Ex. 73 contending that a notice produced by the complainant at Ex.24 was tempered with by the petitioner as in the copy received by present respondent No. 2, the name of Jagdishbhai is shown but name of Jyotindrabhai is not shown and therefore, the present respondent No. 2 has prayed before the court that complainant is directed to produce a copy of the notice, which is signed by the advocate of the complainant. The present petitioner has objected the same and made endorsement below the said application and submitted that in carbon copy by bonafide mistake name was not changed but notice which is produced at Ex. 24, which was sent to the accused by registered AD, in which, name was corrected and no amendment was carried after producing the record before the lower court and therefore, the application submitted by the respondent deserves to be rejected. Thereafter, after hearing both the parties, learned JMFC, IInd Court, Vadodara rejected the said application and against the said order, the present respondent No. 2 preferred Revision Application before the learned Sessions Judge, Baroda and after hearing both the parties, learned Additional Sessions Judge vide order dated 12.3.2004 allowed the said application and set aside the order passed by the learned JMFC and against the said order, present petitioner filed this revision application.

3. Heard Mr. Bhattji, learned advocate for the petitioner and Mr. K.P. Raval, learned Addl.P.P. for the respondent No. 1 State of Gujarat. Learned advocate Mr. Shah for the respondent No. 2 is absent when the matter is called out.

4. During hearing, Mr. Bhattji, learned advocate for the petitioner has taken me through the order under challenge and the documents attached with the memo of revision application.

5. I have also gone through the order under challenge and the documents attached with the memo of revision application. Looking to the documents, this court is of the view that learned Appellate Judge has rightly held that the evidentiary value of the documents will be decided at the time of delivery of the judgement and accused has right to produce document before the lower court. Mr. Bhattji has failed to show me any irregularity or impropriety in the order passed by the learned Additional Sessions Judge. Accordingly, this court is of the view that the present revision application deserves to be rejected.

6. For the foregoing reasons, the present revision application is dismissed. The lower court is directed to dispose of the said case as early as possible preferably within 3 months from the date of receiving of this order. Rule is discharged.

(M.D. Shah, J.)
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